



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,098	06/13/2001	Mayumi Tomikawa	826.1729	3219

21171 7590 11/17/2005

STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

KNOWLIN, THJUAN P

ART UNIT	PAPER NUMBER
	2642

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/879,098	TOMIKAWA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thjuan P. Knowlin	2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 July 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on July 26, 2004 has been entered. Claims 1, 13, 14, 15, and 19 have been amended. No claims have been cancelled. Claims 20-26 have been added. Claims 1-26 are now pending in this application, with claims 1, 13, 14, 15, 19, 20, 21, 22, 23, and 24 being independent.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Kodialam et al (US 6,778,531).
4. In regards to claims 1, 4, 6, 7, 9, 10, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, and 24, Kodialam discloses a distribution route generation apparatus and method (See col. 3-4 lines 51-21), comprising: a collection device (See Fig. 3 and network management

module 305) collecting information about a communication cost between a plurality of nodes (See Fig. 3 and nodes N1-N11) of a communication network (See Fig. 3 and network 300) (See col. 1-2 lines 53-8, col. 5 lines 1-25, col. 8 lines 4-12, and col. 10 lines 30-48) the nodes including a plurality of redistribution servers (e.g. distributed router servers, See col. 5 lines 1-12) which copy and branch streaming data at respective branch points in the communication network to multi-cast the streaming data in an application layer (See col. 1 lines 14-30); a generation device (e.g. router server within the network management module 305 or See Fig. 6, router 600, and col. 14 lines 46-63) automatically generating distribution route information, which indicates a plurality of distribution routes to a plurality of clients on the communications network through at least one of the redistribution servers from a source, based on the information about the communications cost when streaming data are originated and distributed from the source to the plurality of clients; and an output device (e.g. multicast routing tree or server)outputting the distribution route information (See col. 3 lines 13-24, col. 6 lines 14-36, col. 7 lines 25-41, and col. 11-12 lines 63-11).

5. In regards to claims 2, 3, and 18, Kodialam discloses the distribution route generation apparatus, wherein said generation device generates the distribution route information by selecting a receiver node in such a way that a communications cost between the source and the receiver node is minimized (See col. 8 lines 4-12, col. 11-12 lines 63-11, and col. 13 lines 52-67).

6. In regards to claim 5, Kodialam discloses the distribution route generation apparatus, wherein said generation device divides the nodes into the groups using a

branch in which a communications cost between nodes is equal to or more than a threshold value, as a boundary (See col. 1-2 lines 53-8, col. 8 lines 4-12, col. 11-12 lines 63-11, and col. 13 lines 52-67).

7. In regards to claim 8, Kodialam discloses the distribution route generation apparatus, wherein said restriction device detects a router located within a first restricted number of hops from a measuring node performing measurement, based on information about a route from the source to the measuring node and designates a node located within a second restricted number of hops from the detected router as a measurement target (See col. 3 lines 29-48 and col. 10 lines 30-48).

8. In regards to claims 11 and 12, Kodialam discloses the distribution route generation apparatus, wherein said generation device further generates distribution route information indicating a substitute distribution route, excluding a part in which a failure is anticipated to occur on the communications network (See col. 5 lines 26-35).

9. In regards to claim 25, Kodialam discloses a system, wherein the cost information comprises communication delay information (See col. 8 lines 4-12, col. 11-12 lines 63-11, and col. 13 lines 52-67).

10. In regards to claim 26, Kodialam discloses a system, wherein the network comprises the Internet (See Fig. 1, packet networks 102-104, and col. 1 lines 19-30).

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

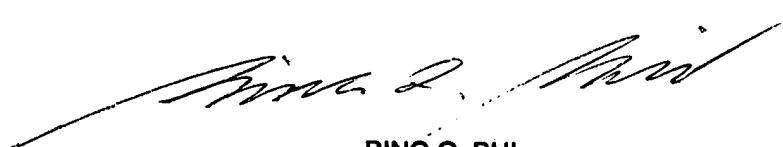
***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chowdhury et al (US 6,631,136) teach methods and apparatus for data communication using a hybrid transport switching protocol.
13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P. Knowlin whose telephone number is (571) 272-7486. The examiner can normally be reached on Mon-Fri 8:30-5:00pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thjuan P. Knowlin



BING Q. BUI  
PRIMARY EXAMINER